SOCIAL PLANNING
COUNCIL
OF
METROPOLITAN
TORONTO

A participant in the United Way

A Submission with Respect to Bill 51, An Act to provide for the Regulation of Rents Charged for Rental Units in Residential Complexes

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A Member of
the United Way

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1. The Social Planning Council of Metropolitan Toronto is a voluntary social planning organization in the Metropolitan Toronto community whose purposes include the facilitation of active citizen involvement in the analysis of social issues, the development of social policies and the planning of human services. It exercises an independent voice in encouraging and assisting groups and individuals to develop social policies and services. The Social Planning Council is incorporated as a charitable, non-profit company, with core funding provided for the most part by the United Way of Greater Toronto and the Council of the Municipality of Metropolitan Toronto.

Prior Social Planning Council Reports on Rent Review

2. The Social Planning Council of Metropolitan Toronto has long been supportive of efforts to regulate the rate at which rents increase. Regulation of rent increases is a necessary complement to the Landlord and Tenant Act in securing the tenure of Ontario's tenants.

3. We first asserted this point of view in Rent Controls: Why We Need Them. What Kind? How Long? in 1975. Many of the measures for regulating rents put forward in that report were subsequently adopted. The Social Planning Council submitted a brief respecting Bill 163, An Act to reform the law respecting Residential Tenancies and the Act under which rents in residential tenancies are still largely regulated in Ontario. Large parts of that Act were never proclaimed as a result of the fact that the proposal to establish an autonomous court under provincial jurisdiction to regulate both rents and landlord-tenant matters was declared ultra vires by the Supreme Court of Canada.

4. In February 1983 we made a brief submission to the Commission of Inquiry into Residential Tenancies, the Thom Commission. The most significant point made in that brief was that the balance of probabilities indicated that from 25 to 50 per cent of landlords of buildings consisting of six units and over had increased rents over and above the guideline amount in the 1980 to 1982 period without appealing to the Residential Tenancies Commission, as the law requires. We argued for the necessity of a system of rent registration to reduce the likelihood of rents being increased illegally. Mr. Thom subsequently supported the establishment of a rent registry. We are heartened that Bill 51 contains provisions for the registration of rents in Ontario.

5. In addition, the Social Planning Council published a discussion paper, Rent Review in Ontario and Factors Affecting the Supply of Rental Housing, in which it was concluded that rent review in Ontario had largely not been responsible for the sharp decline in apartment starts that occurred through the 1970s and early 1980s.* Other economic factors, most still operative, contributed significantly to the dirth of privately initiated housing starts and to the shortage of rental housing units that has reached such critical proportions in Metropolitan Toronto. These factors include declining new household formation, decreases in the incomes of tenant households relative to average earnings and consumer price increases and increases in operating and financing costs relative to other costs and prices. High interest rates may have been the most significant factor.

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*Jeffrey Patterson, Rent Review in Ontario and Factors Affecting the Supply of Rental Housing, Discussion Paper on Social Policy, No. 1 (Toronto: Social Planning Council, June 1985).

Other Housing Reports by the Social Planning Council

6. The Social Planning Council has undertaken and published many other studies and reports with respect to housing. In March 1984 A New Housing Agenda for Metropolitan Toronto was published. A survey of households in Metropolitan Toronto, undertaken jointly with the Planning Department of the Municipality of Metropolitan Toronto, led to the conclusion that some 70,000 additional households will require some form of rent-geared-to-income housing before the turn of the century. We proposed an assisted housing target of 4,500 units per year during the next 15 years for Metropolitan Toronto to address this need.

7. In March 1985 we published "Strategies for Implementing A New Housing Agenda for Metropolitan Toronto: A Response to the Federal Government's Consultation Paper on Housing," and in May 1985 we completed the report, The Viability of a National Shelter Allowance Program: A Critical Assessment of the Steele Report, for the Co-operative Housing Foundation of Canada. In Housing: The Faces Behind the Need (October 1985) we published the results of a survey in which the 19 human service agencies in Metropolitan Toronto who participated indicated that housing problems were a major contributor to many other problems bringing clients into contact with the agencies.

Bill 51 Overview

8. The Board of Directors of the Social Planning Council supports the principles underlying Bill 51, An Act to provide for the Regulation of Rents charged for Rental Units. The Government has proposed a new system of rent review that potentially overcomes many of the inadequacies of the

current rent review system. Some of these were inherent when the current system was established in 1975 and 1979. Others have resulted from the fact that the existing rent review system was originally adopted in 1975 as a temporary measure, part of the anti-inflation program initiated in the fall of 1975. Bill 163, passed in 1979, simply made more permanent most of the provisions of the 1975 Act.

9. The proposed statutory guideline for rent increases will eliminate the necessity to continually seek legislative approval for changes in the guideline. It will be sensitive to changes in the costs of operating rental housing. We are supportive of the proposal to make the statutory guideline reflect a three year moving average of operating cost increases and to make it exceed actual inflation when inflation is low and to be less than inflation when inflation is high.

10. The proposal to establish a provincial rent registry is both welcome and long overdue. It is essential that the proposed rent registry provide current information on actual and potential rents and anniversary dates for rent increases.

11. The proposal to tie the ability of landlords to take rent increases to the adequacy of apartment maintenance should provide additional impetus for landlords to keep up adequate maintenance programs.

12. While the proposed rent review program, nor any rent review program, will not by itself bring about market conditions conducive to increased new, private rental development, the proposed system is one that is fair to

landlords. It should not therefore inhibit the development of new rental housing.

13. The proposed extension of rent review to all privately initiated rental housing developments will end the growth of a two market system, one protected by rent review and one unprotected, that has begun to develop after 11 years of rent review. It will also result in increased security of tenure for the occupants of post-1975 rental housing stock.

Specific Provisions of Bill 51

14. While the Social Planning Council supports the new directions embodied in Bill 51, we nevertheless feel that certain changes in some of its provisions are desirable. These are detailed in the following.

15. Section 4(g): It is proposed, as in the case under the Residential Tenancies Act, that nursing homes be exempt from application of the Act. It has come to our attention that certain accommodation in which a very few care services for the occupants are provided and which for the most part constitute self-contained apartments has become subject to arbitrary rent increases to the detriment of the security of tenure of the occupants. We recommend that this exclusion be modified to provide that such units be included under rent review if they contain their own self-contained bathroom and kitchen facilities. The fees charged for nursing homes should be regulated by the Ministry of Health.

16. Maintenance: As indicated above, we support the development of province-wide standards for rental housing maintenance and the connection

of conformity with these standards to the ability of landlords to take rent increases. However, we do not think that the provisions of Section 15(5) go far enough with respect to the protection intended. In situations where a landlord fails to bring a residential complex into compliance with the developed provincial standards within one year of a notice being issued under Section 15(3), the landlord should lose the ability to take any rent increases whatsoever until such compliance has been achieved. In addition, all tenants residing in a residential complex so affected should be apprised of the circumstances and notified of their rights respecting illegal rent increases.

17. Rent Registry: The Social Planning Council supports the establishment of a rental housing registry, and we have asserted since we appeared before the Legislative Committee considering Bill 163 in 1979 that the establishment of such a registry was essential to the enforcement of a system of rent review. We note in Sections 19(2) and 66 that it is proposed that the rent registry maintain maximum legal rents and that landlords need inform new tenants only of the maximum legal rents that would obtain only if the landlord took the statutory guideline rent increase each and every year. We think that this is insufficient. Other sections of Bill 51 regulate the maximum increase that a landlord may take in any one year that would limit the ability of landlords to increase actual rents to maximum legal rents. It is therefore essential that the proposed rent registry maintain actual rents charged as well as maximum legal rents. We recommend that Bill 51 be amended accordingly and that Section 19(2) be amended to provide that landlords inform new tenants of the actual rent charged the last previous tenant. It is recommended that

the giving of false information under this Section also constitute an offence of the proposed Act.

18. Section 53: This Section exempts the application of the rent registry to rooming and boarding houses. We recommend the deletion of this Section. It is proposed that Bill 51 otherwise apply to rooming and boarding houses. It is therefore essential that rooming and boarding house landlords and operators be required to register rents as well. In fact, this requirement is even more essential in the case of rooming houses because occupants tend to stay for shorter periods of time. It would be remiss not to require the registry of these rents when the need to extend additional protection to roomers is being considered by the Ministries of the Attorney General and of Housing.

19. Section 55(1): Over 80,000 rental units in Ontario are contained in four-plexes. Many of these units rent for below average market rents. Therefore, we recommend that Section 55(1) be amended to include buildings with four or more apartments.

20. Section 55(2): We recommend that this Section be amended to include a schedule for the registration of smaller buildings.

21. Residential Complexes Cost Index and Section 68: This Section together with Schedules A and B regulates the statutory rent increase to which landlords are entitled without applying to the Minister of Housing. We feel that the proposed Residential Complex Cost Index requires amendment. We appreciate that the proposed formula for its determination

operates in such a way that rent increases are depressed when inflation is rapid and that it allows rents to catch up to inflation when inflation is low. However, built into the formula is the assumption that the long-term cost of operating residential complexes will increase by six per cent per year. This is significantly higher than the forecast rate of inflation to 1989, when it is proposed that the Minister of Housing review the formula underlying the Residential Complexes Cost Index.

22. We note that several provisions of Bill 51 allow for maximum permitted rents in excess of actual rents, including protection against financial and economic loss and assurances of a reasonable rate of return on invested equity and capitalized losses. In addition, it provides for forgiveness of past illegal rent increases. Given these provisions there is no justification for establishing a statutory guideline which is likely to exceed the rate of inflation for the remainder of this decade. The experience of the Residential Tenancy Commission would suggest that operating costs, on average, are equal to about 60 per cent of the annual expenditures associated with running a building. Therefore, we recommend that the statutory guideline be adjusted to reflect 2 per cent + 60 per cent of the Building Operating Cost Index (BOCI). Such an adjustment would result in increases above inflation when costs are below 5 per cent, and increases below inflation when costs exceed 5 per cent.

23. Section 68(3) as worded raises the prospect of unusually large rent increases which could have an adverse effect on many lower income tenants. We recommend that this provision be amended such that increases above the statutory guideline to narrow the gap between actual and maximum permitted rents be limited to 5 per cent in any one year.

24. Chronically Depressed Rents and Section 88: Bill 51 contains a provision that allows for additional rent increases of up to 2 per cent per year in specialized situations where rents are abnormally low relative to rents in equivalent units and rates of return are low as well. If landlords of buildings with low rents were suffering we feel that they would have made application for rent increases some time over the past 11 years. We recommend that this Section be deleted, especially as there are no provisions for compensating tenants who may be adversely affected by this Section.

25. Should it be decided to retain this Section it is recommended that a time limit of two years from the date of proclamation of this section in making application for relief of chronically depressed rents be added to Section 88.

Conclusion

26. The regulation of rents proposed in Bill 51 is supportive of other housing initiatives to which the Government of Ontario recently committed itself in its Assured Housing Program. While rent review will apply to all privately-initiated rental housing units it should not be suggested that this comprises an impediment to the development of new rental housing. The rents in new housing developments will be permitted to reach levels that will allow developers to earn a competitive rate of return on their investments.

27. The Government of Ontario has recognized that private developers will

never be able to meet the needs of many Ontario families and individuals. Accordingly, the Assured Housing Program commits the provincial government, in conjunction with the Canada Mortgage and Housing Corporation, to providing 6,700 units per year for three years of non-profit housing. About 40 per cent of the occupants of these units will be assisted on a rent-geared-to-income basis. While this level is far and away above any commitment of a previous government, we suggest to the Resources Committee that this commitment is still not sufficient to meet the needs for assisted housing of Ontario's low-income tenants.

28. Meeting the need for assisted housing in Metropolitan Toronto alone would necessitate a 15 year program with a target of 4,500 units of rent-geared-to-income housing annually. It is anticipated that at least 50 per cent of these units could be provided through programs aimed at retaining the existing stock of affordable rental housing. Mounting a similar program to address the serious housing problems facing families and individuals all across Ontario would require an annual target of at least 12,000 rent-geared-to-income units province-wide. This would represent a four-fold increase in existing R.G.I. commitments. We recommend that the provincial government increase significantly its unit allocation to non-profit housing development, and that this commitment be established in such a way that non-profit housing producers may gear up to meet the higher production level.

29. Finally, homelessness, lack of access to permanent shelter, has become one of the most critical problems in Metropolitan Toronto. While this problem affects families as well as individuals, it currently affects single persons more than any other group. Many of the homeless require

other community supports in addition to their need for housing. We recommend a co-ordinated approach in increasing funding of second stage and supportive housing initiatives to solve the problem of homelessness in our communities. We acknowledge that this Legislature has introduced amendments to the Ontario Human Rights Code which would make it unlawful for landlords to discriminate against families with children. We are hopeful that this change once enacted will make it easier for moderate and low-income families with children to find suitable rental housing.